

REMARKS / ARGUMENTS

Claims 1-30 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bontemps. The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 102

I. Bontemps Does Not Anticipate Claims 1, 11 and 21

The Applicant now turns to the rejection of claims 1, 11 and 21 under 35 U.S.C. 102(b) as being anticipated by Bontemps. With regard to the anticipation rejections under 102(b), MPEP §2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See id. (internal citation omitted).

A. Rejection of Independent Claim 1 under 35 U.S.C. § 102 (b)

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(b), the Applicant maintains that Bontemps does not disclose or suggest at

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least the limitation of “determining any one usable media pair from all existing media pairs”, as recited by the Applicant in independent claim 1. The Applicant notes the arguments made in the Final Office Actions.

The Final Office Action responds to the Applicant's argument as follows:

5. Applicant argues that Bontemps does not disclose or suggest the limitation “determining any one useable media pair from all existing pairs” (see page 20, last paragraph).

6. In response, the Examiner respectfully disagrees and draws attention to the fact that Bontemps teaches that the control circuit determines which media pair (*see column3, lines 58-62, A control circuit is provided that toggles (determines) the selected circuit between the first and second states (media pairs until a link detect signal indicates the reception of communication signals (from all existing media pairs). The control circuit holds the selected circuit in the particular state in which valid communication signals were detected (determination of the one usable media pair)*) See Figure 2, the control circuit decides which usable media pair is selected from the plurality of ports as shown. (Emphasis in the original)

The Final Office Action highlights, in round brackets, what the Examiner believes the different passages of the cited passage from Bontemps correspond to with respect to the Applicant's claim limitation “determining any one useable media pair from all existing pairs”. It appears that the entire above citation from Bontemps, col. 3, lines 58-62 is used in the Final Office Action to demonstrate how the claim limitation “determining any one useable media pair from all existing pairs” may, supposedly, be anticipated. Incidentally, the above citation by Bontemps is used in point 3. of the Final Office Action as a basis to reject the

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entire claim 1, that, in addition to the above limitation, comprises the following two limitations also:

“selecting any one channel from all existing channels, said selected any one channel being different from a general channel assignment corresponding to said determined any one usable media pair; and

assigning said selected any one channel to said any one media pair.”

The Applicant notes that a) the Final Office Action does not explicitly address how the above citation from Bontemps, col. 3, lines 58-62 may anticipate the remaining two claim limitations by the Applicant, cited above, and b) given the markedly different content of the 3 claim limitations recited by the Applicant in claim 1, the Applicant fails to recognize how the same 4 lines in Bontemps may anticipate all the claim limitations in claim 1 by the Applicant. The Applicant respectfully asserts that Bontemps does not disclose “selecting any one channel from all existing channels, said selected any one channel being different from a general channel assignment corresponding to said determined any one usable media pair; and assigning said selected any one channel to said any one media pair.”

The cited passage by Bontemps fails to anticipate each and every element of claim 1, as required by MPEP §2131 and cited above. If the Examiner believes that the passage by Bontemps, col. 3, lines 58-62 anticipates **all** claim limitations by the Applicant recited in claim 1, the Applicant respectfully requests a detailed

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analysis.

The Applicant therefore respectfully submits that the rejection of claim 1 under 35 U.S.C. §102(b) is withdrawn and the claim made allowable. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 1.

Since independent claims 11 and 21 are in many respects similar to the method disclosed in independent claim 1, the Applicant respectfully submits that independent claims 11 and 21 are also allowable over the references cited in the Final Office Action for at least the reasons stated above with regard to claim 1. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 11 and 21.

B. Rejection of Dependent Claims 2-10, 12-20, 22-30

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(b) as being anticipated by Bontemps has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20 and 22-30 depend from independent claims 1, 11 and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

Applicant also reserves the right to argue additional reasons beyond those

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set forth above to support the allowability of claims 1-30.

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CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and request that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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